



Billing Code: 4333–15

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–RX–ES–2017–N167]; [FXES11140800000–178–FF08E00000]

Notice of Availability; City of San Diego Vernal Pool Habitat Conservation Plan and Final Environmental Impact Report/Statement; San Diego County, California

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability of final environmental impact report/environmental impact statement and habitat conservation plan.

SUMMARY: The City of San Diego (applicant) has applied to the U.S. Fish and Wildlife Service (Service) for an incidental take permit under section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended (Act). The Applicant is requesting a permit to incidentally take 2 animal species and seeking assurances for 5 plant species (all are federally listed species) during the term of the proposed 30-year permit. The permit is needed to authorize take of listed animal species (including harm, death, and

injury) resulting from covered activities. The proposed Vernal Pool Habitat Conservation Plan (VPHCP) plan area encompasses 206,124 acres in the southwestern portion of San Diego County within the State of California.

Pursuant to the National Environmental Policy Act (NEPA), we advise the public of the availability of the final Environmental Impact Report (EIR)/Environmental Impact Statement (EIS) analyzing the impacts of issuing an incidental take permit based on the City's proposed VPHCP. The EIR portion of the joint document was prepared by the City in compliance with the California Environmental Quality Act (CEQA).

DATES: A record of decision will be signed no sooner than 30 days after the publication of the Environmental Protection Agency (EPA) notice of the final EIS in the Federal Register. We must receive any comments by 5 p.m. on **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Please send written comments to Mr. Mendel Stewart, Field Supervisor, U.S. Fish and Wildlife Service, Carlsbad Fish and Wildlife Office, 2177 Salk Avenue, Suite 250, Carlsbad, California 92008. You may also submit comments by facsimile to (760) 431-5901.

Information and comments related specifically to the final EIR and the California Environmental Quality Act should be submitted to Myra Herrmann, Senior

Environmental Planner, City of San Diego Planning Department, 1010 Second Avenue, East Tower, Suite 1200, MS 413, San Diego, CA 92101. You may also submit comments by email to PlanningCEQA@san Diego.gov.

FOR FURTHER INFORMATION CONTACT: G. Mendel Stewart, U.S. Fish and Wildlife Service, 2177 Salk Avenue, Suite 250, Carlsbad, California 92008; or by phone at (760) 431-9440.

SUPPLEMENTARY INFORMATION:

Availability of Documents

Documents available for public review include the final EIR/EIS with response to public comments received on the draft EIR/EIS, VPHCP, and the Implementing Agreement.

- For copies of the documents, please contact the Service by telephone at (760) 431-9440, or by letter to the Carlsbad Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**). Copies of the final EIR/EIS, VPHCP also are available for public review, by appointment, during regular business hours, at the Carlsbad Fish and Wildlife Office or at the City of San Diego. Copies are also on the City's Web site at <https://www.sandiego.gov/planning/programs/mscp/vphcp>.

Background

Section 9 of the Endangered Species Act of 1973, as amended (Act; 16 U.S.C. 1531 *et seq.*), and Federal regulations prohibit the “take” of fish and wildlife species federally listed as endangered or threatened. Take of federally listed fish or wildlife is defined under the Act as to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect listed species, or attempt to engage in such conduct (16 U.S.C. 1538). “Harm” includes significant habitat modification or degradation that actually kills or injures listed wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, and sheltering (50 CFR 17.3). Under limited circumstances, we may issue permits to authorize incidental take, which is defined under the Act as take that is incidental to, and not the purpose of, otherwise lawful activities. “Take” under the ESA does not apply to plant species, and is therefore not prohibited under the ESA; however, the plant species identified in the VPHCP are listed on the Federal Permit as Covered Species in recognition of the conservation measures provided for them under the Plan and receive “No Surprises” regulatory assurances under the Federal Permit.

The Applicant seeks incidental take authorization for 2 animal species and assurances for 5 plant species. Collectively the 7 listed species are referred to as “Covered Species” by the VPHCP and include 2 crustaceans and 5 plant species (all listed). The permit would provide take authorization for both animal species and assurances for all plant species identified by the VPHCP as “Covered Species.” Take

authorized for listed covered animal species would be effective upon permit issuance.

The proposed permit would include the following 2 federally listed animal species: San Diego fairy shrimp (*Branchinecta sandiegonensis*; endangered) and Riverside fairy shrimp (*Streptocephalus woottoni*; endangered). The proposed permit would include assurances for the following 5 plant species included in the VPHCP: Otay Mesa mint (*Pogogyne nudiuscula*; endangered), San Diego mesa mint (*Pogogyne abramsii*; endangered), spreading navarretia (*Navarretia fossalis*; threatened), San Diego button-celery (*Eryngium aristulatum* var. *parishii*; endangered), and California Orcutt grass (*Orcuttia californica*; endangered).

The VPHCP Plan Area encompasses 206,124 acres and is intended to protect and sustain viable populations of native plant and animal species and their habitats in perpetuity through avoidance, minimization, and mitigation measures. It includes measures necessary to minimize and mitigate the impacts, to the maximum extent practicable, of potential proposed taking of federally listed species to be covered by the VPHCP, and the habitats upon which they depend, resulting from residential, commercial, and other development activities within the proposed plan area. The covered activities under the VPHCP are expected to include residential, commercial, and industrial development; airport operation; road and utility maintenance and construction; trail use; and vernal pool restoration and enhancement.

The VPHCP is a conservation plan for vernal pools and seven threatened and endangered vernal pool species that do not currently have federal coverage under the section 10(a)(1)(B) permit issued to the City of San Diego in association with its Multiple Species Conservation Program Subarea Plan (MSCP SAP). The VPHCP would be compatible with, and would expand upon, the City's existing MSCP SAP by adding approximately 275 acres of additional lands with vernal pools that are occupied with threatened and endangered vernal pool species. The VPHCP would conserve an additional 8 vernal pool complexes and additional 226 pools (approximately 9% more), totaling 2.8 acres of basin area, over what is currently conserved. Once adopted, vernal pool lands would be subject to the provisions of the VPHCP, in addition to the City's MSCP SAP and other existing land use and biological resource plans, policies, and regulations.

National Environmental Policy Act Compliance

The EIR/EIS analyzes two alternatives in addition to the proposed action (i.e., permit issuance based on the VPHCP) described above. The other alternatives include a no-action (i.e., no permit) alternative and an expanded conservation alternative.

The final EIR/EIS includes all comments we received on the draft EIR/EIS and our response to those comments. After the 30 day waiting period, we will complete a Record of Decision that announces our decision on the action that will be implemented and discusses all factors leading to the decision.

Public Review

Copies of the final EIR/EIS and the VPHCP are available for review (see **Availability of Documents**). Any comments we receive will become part of the administrative record and may be available to the public. Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment, including your personal identifying information, may be made publicly available at any time. While you may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority

We provide this notice under section 10(c) of the ESA (16 U.S.C. 1531 *et seq.*) and its implementing regulations (50 CFR 17.22) and NEPA (42 U.S.C. 4321 *et seq.*) and its implementing regulations (40 CFR 1506.6).

Michael Senn,

Acting Assistant Regional Director,

Pacific Southwest Region,

Sacramento, California.

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